

### **REMARKS**

Upon entry of this Amendment, claims 21-39 remain pending and under current examination. In the Office Action,<sup>1</sup> the Examiner took the following actions:

(a) provisionally rejected claim 30 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 28 of copending application no. 10/506,769 (“the ‘769 application”);

(b) provisionally rejected claim 30 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of copending application no. 10/506,542 (“the ‘542 application”);

(c) rejected claim 40 under 35 U.S.C. § 102(b) as being anticipated by Nelson et al. (U.S. Patent No. 5,999,308) (“Nelson”);

(d) objected to claims 31-39 as being dependent upon a rejected base claim, but indicated they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims; and

(e) allowed claims 21-29.

Applicants traverse the rejections for the following reasons.

#### **Regarding the Examiner Telephone Interview of October 17, 2006:**

Applicants thank the Examiner for her time and courtesy in granting the telephonic interview on October 17th, to discuss the two double patenting rejections of claim 30. During the interview, Applicants’ representative pointed out several differences between rejected claim 30 and each of claims 28 and 18 in the ‘769 and ‘542 applications, respectively.

Specifically, Applicants’ representative pointed out that claim 30, at a minimum, contains multiple recitations that are patentably distinct from each of claims 28 and 18 in the ‘769 and

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<sup>1</sup> The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

'542 applications, respectively. For example, claims 28 and 18 do not recite at least the following elements from claim 30 of the present application:

- (1) "...starting from an isotropic distribution of wave vectors, *having group velocity vectors which correspond to said vectors...*"; and
- (2) "...the group velocity vectors corresponding to said wave vectors being rearranged *as concerns direction and module...*"

During the interview, the Examiner found elements (1) and (2) above particularly persuasive. The Examiner requested that these elements be set forth in a response to the Office Action, and indicated that she would likely withdraw both double patenting rejections primarily on the basis of elements (1) and (2) listed above.

**Double Patenting Rejections of Claim 30 over the '769 and '542 Applications:**

Applicants submit that the two provisional double patenting rejections of claim 30 over the '769 and '542 applications have been overcome at least on the basis of the reasoning presented during the telephone interview of October 17th. That is, claim 30 is patentably distinct from each of claims 28 and 18 in the '769 and '542 applications, respectively. Accordingly, claim 30 is allowable and Applicants respectfully request that the rejections be withdrawn.

**Rejection of Claim 40 under 35 U.S.C. § 102(b):**

The rejection of claim 40 has been rendered moot by the cancellation of this claim, without prejudice or disclaimer of its subject matter.

**Objection to Claims 31-39:**

Since Applicants have demonstrated above that independent claim 30 is allowable, dependent claims 31-39 are also allowable at least by virtue of their dependence from allowable base claim 30. Accordingly, Applicants request withdrawal of the objection.

**Allowed Claims 21-29:**

Applicants acknowledge with appreciation the Examiner's indication that claims 21-29 are allowed.

**Conclusion:**

In view of the foregoing, Applicants request reconsideration of the application and withdrawal of the rejections. Because Applicants' amendments and arguments have removed all of the pending rejections, claims 21-39 are in condition for allowance, and Applicants request a favorable action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: December 27, 2006

By: 

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